



## Board of Health Agenda

Date: October 19, 2022

Time: 5:00 PM

Location: Conducted by Remote Participation

### 1. Administrative

#### **BOARD OF HEALTH MEETING AGENDA**

Date: Wednesday, October 19, 2022

Time: 5:00pm

Location: Conducted by Remote Participation

In accordance with the Governor's Order Suspending Certain Provisions of the Open Meeting Law, G. L. c. 30A, § 20 relating to the COVID-19 emergency and subsequent [Act Extending Certain COVID-19 Measures Adopted During the State of Emergency](#), the October 19, 2022 public meeting of the Arlington Board of Health shall be physically closed to the public to avoid group congregation. The meeting shall instead be held virtually using Zoom.

#### ***Public access to this meeting shall be provided in the following manner:***

Real-time public comment can be addressed to the Board of Health utilizing the Zoom virtual meeting software for remote participation. This application will allow attendees to request an opportunity for public comment, and allow the Board Chair to grant attendees the opportunity for public comment. Attendees can use either phone or computer to participate in the meeting. Public comment can also be sent in advance of the meeting by emailing the Board of Health at [boh@town.arlington.ma.us](mailto:boh@town.arlington.ma.us) by no later than 5pm on October 17, 2022. Submitted public comment will be read into the record at the appropriate points in the meeting.

#### ***Zoom Login instructions:***

Instructions and the meeting link for this specific meeting can be found on the Board's agenda and minutes page or on the Town's meeting calendar. The meeting registration information is listed below. When attendees enter the meeting, they will be placed into a virtual waiting room. Attendees will be admitted into the meeting from the waiting room at the start of the meeting.

Please register in advance for this meeting:

**<https://town-arlington-ma-us.zoom.us/meeting/register/tZwrdOysrz4oHdJlMy7z59dsFvUQ2WKLbJL8>**

#### **On this agenda:**

### 2. Acceptance of Meeting Minutes from September 21, 2022

3. CORRESPONDENCE

RECEIVED:

David Morgan -Endorsement of Gas Leaks Task Force Select Board Resolution

4. HEARING:

Tobacco Violation - Arlington Smoke Shop

5. UPDATES:

Environmental Health

6. UPDATES:

Restaurants

7. UPDATES:

COVID-19 / Public Health Nurse

PUBLIC COMMENT

Adjourn



Town of Arlington  
Department of Health and Human Services  
Office of the Board of Health  
27 Maple Street  
Arlington, MA 02476

Tel: (781) 316-3170  
Fax: (781) 316-3175

## BOARD OF HEALTH MEETING MINUTES

Date: Wednesday, September 21, 2022

Time: 5:00pm

Location: Conducted by Remote Participation

In accordance with the Governor's [Order Suspending Certain Provisions of the Open Meeting Law, G. L. c. 30A, § 20](#) relating to the COVID-19 emergency and subsequent [Act Extending Certain COVID-19 Measures Adopted During the State of Emergency](#), the September 21, 2022 public meeting of the Arlington Board of Health shall be physically closed to the public to avoid group congregation. The meeting shall instead be held virtually using Zoom.

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Please register in advance for this meeting:

[https://town-arlington-ma-us.zoom.us/join/tZcuce2hpjs0H9JUEZyEUFzKz0Z7vuOubX\\_2](https://town-arlington-ma-us.zoom.us/join/tZcuce2hpjs0H9JUEZyEUFzKz0Z7vuOubX_2)

**On this agenda:**

**1. Administrative**

Natasha Waden provided the following opening statement: Hello, this is Natasha Waden, Public Health Director for the Town of Arlington. Consistent with the Governor's orders suspending certain provisions of the Open Meeting Law and subsequent Act's Extending Certain COVID-19 Measures Adopted during the State of Emergency, this Town of Arlington Board of Health meeting is being held virtually via Zoom for audio and video participation of Board Members and the public. When you entered this meeting, you were automatically muted. During this meeting you will be unmuted individually as needed. These

controls are in place to ensure that today's meeting is safe and effective. At this time, I would like to confirm that all members and persons anticipated on today's agenda are present and can hear me.

Board Members, when I call your name and unmute you, please respond in the affirmative.

1. Dr. Marie Walsh Condon, Aye, Present
2. Dr. Laura White, Aye, Present

Health Department staff, please respond in the affirmative when I call your name and unmute you.

1. Laura Munsey, Aye, Present
2. Pat Martin, Aye, Present
3. Annette Curbow, Aye, Present
4. Cameron Bishop, Aye, Present

Applicants and Representatives, do we have anyone on the call representing an application?

1. Hissho Sushi – David, Hissho Sushi Representative, Aye, Present
2. Dagg's Deli - Musfiqur Rahman, Aye, Present
3. Galaxy Market - Shajid Shaikh, Aye, Present

Others in attendance:

1. Attorney Michael Cunningham, Arlington Town Counsel, Aye, Present
2. Rotem Aloni, Agent of the Board of Health, Tobacco Control Collaborative, Aye, Present

Thank you everyone.

As stated, this Open Meeting of the Arlington Board of Health is being conducted remotely consistent with An Act Relative to Extending Certain State of Emergency Accommodations which was signed by Governor Baker on July 16, 2022.

In order to mitigate the transmission of the COVID-19 Virus, the Town of Arlington has been advised and directed by the Commonwealth to suspend public gatherings, and as such, the Governor's Order suspends the requirement of the Open Meeting Law to have all meetings in a publicly accessible physical location. Further, all members of public bodies are allowed and encouraged to participate remotely.

The Order, which you can find posted with agenda materials for this meeting, allows public bodies to meet entirely remotely so long as reasonable public access is afforded so that the public can follow along with the deliberations of the meeting.

Ensuring public access does not ensure public participation unless such participation is required by law. This meeting will have multiple public comment periods, one during each of the hearings and one at the end of the meeting. If you would like to comment during one of the public comment periods, please use the "Raise Hand" function if on a computer, or "Dial \*9" if on the phone. When your name or phone number is called, and you are unmuted, please state your name and provide your comment. All attendees will be afforded 3 minutes for any comments.

For this meeting, the Board of Health is convening by telephone and computer conference via Zoom as posted on the Town's Website identifying how the public may join.

Only Health Department staff will be able to share their screen during this meeting. Board Members and Department Staff may be participating by video conference. Accordingly, please be aware that other folks may be able to see you. Anything that you broadcast may be captured by the recording.

All of the materials for this meeting are available on the Novus Agenda dashboard, and I recommend that Board Members and the public follow the agenda as posted on Novus unless otherwise noted. Members of the public are encouraged to provide written public comments.

Before we get to today's agenda, I am going to cover some ground rules for effective and clear conduct of our business and to ensure accurate meeting minutes.

Dr. Marie Walsh Condon, the Board Chair, will introduce each agenda item. After the item is presented, she will go down the list of Board Members, inviting each by name to provide any comment, questions, or motions. Please hold comments or questions until your name is called and you are unmuted.

For any response, please wait until the Chair yields the floor to you, and state your name before speaking.

Finally, each vote taken during this meeting will be conducted by roll-call vote.

Floor yielded to Dr. Marie Walsh Condon.

Hello everyone, welcome to today's Board of Health meeting.

## **2. Acceptance of the July 13, 2022 Meeting Minutes**

Motion made by Dr. White to approve the July 13, 2022 meeting minutes as submitted.

2<sup>nd</sup> by Dr. Walsh Condon

Vote: A roll-call vote was called by Attorney Michael Cunningham:

- Dr. Marie Walsh Condon, Aye
- Dr. Laura White, Aye

Approved (2-0) Unanimous

## **3. Hearing: Hissho Sushi – Variance Request**

Inspector Bishop reported that Hissho Sushi has applied for a variance in accordance with Food Code 3-502.11. He reported that the establishment intends to use acidification, through the use of a vinegar solution, to render cooked rice a non-time/temperature control for safety (non-TCS) food. The variance request was accompanied by the required Hazard Analysis and Critical Control Points (HACCP) plan. A

rice sample has been validated by Advanced Food Labs Inc. in Chelsea, MA with a pH of 3.97, less than the target of 4.1.

The floor was yielded to David of Hissho Sushi who reported that their company is requesting a variance to use the acidification process as described by Inspector Bishop within their Arlington Stop and Shop location. He indicated that they produce all products fresh and up front. Food would be prepared and packaged by the staff within the Deli Counter.

Dr. Walsh Condon requested clarification in their plan. Step 12 states that some health departments require the use of a blender rather than mixing the slurry by hand. Inspector Martin clarified that there are no additional requirements in Arlington.

Dr. White had no additional comments or questions.

Dr. Walsh Condon opened the floor to public comments regarding this hearing.

Comments: None

Inspector Bishop recommended the Board approve the application for a variance request as submitted.

Motion made by Dr. Walsh Condon to approve the variance request of Hissho Sushi located within Stop & Shop at 905 Massachusetts Avenue to use acidification through the use of a vinegar solution, to render cooked rice a non-time/temperature control for safety (non-TCS) food.

2<sup>nd</sup> by Dr. White

Vote: A roll-call vote was called by Attorney Michael Cunningham:

Dr. Marie Walsh-Condon, Aye  
Dr. Laura White, Aye

Approved (2-0) Unanimous

#### **4. Hearing: Dagg's Deli – Tobacco Violation**

Inspector Martin reported that on September 8, 2022, Rotem Aloni, Agent of the Board of Health conducted a compliance check at Dagg's Deli, located at 148 Massachusetts Avenue. During the inspection, Ms. Aloni observed blunt wrappers available for purchase. Arlington Regulations Restricting the Sale of Tobacco Products and Nicotine Delivery Products, Section G, Prohibition of the Sale of Blunt Wraps, states that "No person or entity shall sell or distribute blunt wraps in Arlington".

Inspector Martin reported that the violation represents the first violation for Dagg's Deli in a 36-month period. Arlington Regulations Restricting the Sale of Tobacco Products and Nicotine Delivery Products state, in part, for a first violation the violator shall receive: "a fine of one hundred dollars (\$100.00) and the Tobacco and Nicotine Delivery Product Sales Permit shall be suspended for seven (7) consecutive business days".

Dr. Walsh Condon yielded the floor to Rotem Aloni who stated that on September 8 she inspected several stores in Arlington, and during a routine tobacco inspection at Dagg's Deli she saw blunt wraps made of tobacco leaves available for purchase.

Dr. Walsh Condon yielded the floor to Musfique Rohman of Daggs Deli. Mr. Rohman indicated that they had never carried this product before, and they were unaware it was not allowed. He mentioned that in the future, he will check with the Health Department prior to selling a new product. He also stated that Dagg's Deli has had no violations in the past 10 years – had never sold to anyone underage - and indicated this was an unfortunate and honest mistake. He expressed the hope that the board would take that under consideration and not impose the seven-day suspension.

Dr. Marie Walsh Condon commended him on never having a violation in all these years and appreciated that he has a plan in place.

Floor yielded to Dr. Whit who also appreciated the frankness and plan in place and sought a recommendation from the Health Department.

Inspector Martin recommended that, given their excellent compliance history and the level of violation, to uphold the violation and the fine, but proposed that the seven-day suspension not be imposed.

No public comments.

Motion made by Dr. Walsh Condon to uphold the fine of \$100 and excuse the 7 day suspension period based their excellent compliance record and plan in place.

2<sup>nd</sup> by Dr. White

Vote: A roll-call vote was called by Attorney Cunningham:

Dr. Marie Walsh-Condon, Aye

Dr. Laura White, Aye

Approved (2-0) Unanimous

## **5. Hearing: Galaxy Market – Tobacco Violation**

Inspector Martin reported that Galaxy Market is before the Board requesting a conditional tobacco permit be issued to their establishment through the end of this year. He further reported Galaxy Market had failed 6 compliance checks within the last 36 months.

The first violation occurred on December 1<sup>st</sup>, 2020, when flavored nicotine products were offered for sale resulting in a \$1,000 fine.

On June 9<sup>th</sup>, 2021, they were cited for selling to someone under the age of 21. They were issued a fine of \$2,000 and their permit was suspended for 14 days.

On August 10, 2021, they were cited for failure to remove nicotine products while serving a suspension. They were issued a fine of \$5,000 and their permit was suspended for 30 days.

On September 1, 2021, they were again cited for having nicotine delivery products available on site while serving a suspension.

At the January 2022 meeting, the Board of Health voted in favor of issuing a conditional permit through March 31, 2022. At the March 2022 meeting, the Board voted to extend their conditional permit until the end of June.

On May 18, 2022, Galaxy Market was cited for another violation and issued a \$300 fine and a 30-day suspension.

In addition to these violations, they also served a 90-day suspension from the Department of Revenue due to a failed compliance check.

Dr. Marie Walsh Condon yielded the floor to Sajid and Farha.

Farha requested a license reinstatement for Galaxy Market. They are in the process of selling the business and believe that a reinstatement will make the sale go smoother.

Dr. White expressed concern over the number of violations and that, other than the sale, there appears to be no plan in place to avoid further tobacco sales violations.

Dr. Walsh Condon also expressed that her main concern regarded the number of violations. She was also concerned about the anticipated sale as it has already been delayed several times. As such, she indicated that she does not feel compelled to grant a reinstatement.

Members of the public: no comments

Inspector Martin recommended that the request for an extension of the conditional permit be denied.

Motion made by Dr. White to decline the extension of the permit

2<sup>nd</sup> by Dr. Walsh-Condon

Vote: A roll-call vote was called by Attorney Cunningham:

Dr. Marie Walsh-Condon, Aye  
Dr. Laura White, Aye

Approved (2-0) Unanimous



## **6. Updates: Environmental Health**

Regarding the 184 Westminster Avenue (Housing Code Violation), the Board had voted at the July meeting to table the hearing to a future meeting due to the zoning concerns. On July 20, 2022, Inspectional Services sent a letter requesting documentation on how and when the dwelling was converted to a two family. To date, no additional documentation has been submitted to Inspectional Services.

The Eastern District Housing Court appointed receiver for 1530 Mass Avenue. On September 16, the receiver began the process of bringing the property into compliance. Additional information will be provided at the next BOH Meeting.

At this time, there are no positive mosquito pools in Arlington.

## **7. Updates: Restaurants**

Inspector Martin reported that Town Day took place this past weekend. Mojin Solutions conducted inspections on behalf of the Department.

## **8. Updates: COVID-19/Public Health Nurse**

Director Waden reported on recent State, CDC and DESI changes to the covid-19 protocols regarding isolation/quarantine guidelines. The CDC changes require an individual to isolate 6 days, and mask for another 5 days. If the individual tests twice and produces a negative result, they don't need to wear a mask. Desi and the Arlington schools have not imposed stricter guidelines. However, we regularly consult with the schools when clusters or cases pop up. Ultimately, the schools make their own decisions regarding masking etc. AT this time there are no clusters we are aware of at any of the schools.

Director Waden informed the Board that we are we are still working with a collaborative in Somerville who is doing contact tracing. However, if a case is found in school, congregate setting, housing authority or other such setting, staff from our Department do the follow up with the facility. As the demand for testing has decreased, we have discontinued our regular testing sites, but continue to offer free home test kits, and have the capability to do larger testing if needed.

This year, due to staffing constraints we are scaling back significantly on both flu and Covid-19 booster clinics. At this time the focus is on congregate settings in our senior housing buildings and home bound individuals. As we approach the cold and flu season, we will continue to assess the community needs our ability to resume to larger scale clinics, in the meantime we are referring individuals to pharmacies and doctors offices.

Director Waden reported that Monkey Pox cases have seemed to slow down and we currently do not have any active cases

Dr. Walsh appreciated thanks to staff.

Dr. White Appreciate all the efforts and asked what happens if there is a ramp up especially in the schools. Director Waden stated that the Department is in regular communication with the schools and would be working the both the Superintendent and School Nurse Manager to assess the situation.

Director Waden explained that unfortunately, there is not just one metric (i.e. 25 percent of the class has covid) that can be used to make decisions. Rather it is important to look at the epidemiological information associated with the case(s) and additionally assess what protocols can be implemented such as increased ventilation, etc, before instituting additional restrictions.

Dr. Condon agrees we are in a much different place, for testing and treatment of Covid-19.

#### **Public Comment**

Marie Walsh Condon opened the floor to Public Comment: None

Motion to adjourn made at 6:00 PM by Dr. Walsh Condon .

2<sup>nd</sup> by Dr. White

Vote: A roll-call vote was called by Attorney Cunningham:

Dr. Marie Walsh-Condon, Aye In Favor

Dr. Laura White, Aye In Favor

Approved (2-0) Unanimously

Meeting adjourned.

Thank you everyone for attending and participating in today's meeting. Have a nice day

**From:** "Padraig Martin" <PMartin@town.arlington.ma.us>  
**To:** "Padraig Martin" <PMartin@town.arlington.ma.us>  
**Date:** 10/13/2022 02:34 PM  
**Subject:** Re: Fwd: Endorsement of Gas Leaks Task Force Select Board Resolution

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From: David Morgan <dmorgan@town.arlington.ma.us>  
To: nwaden@town.arlington.ma.us  
Date: Thu, 6 Oct 2022 14:22:30 -0400  
Subject: Endorsement of Gas Leaks Task Force Select Board Resolution

Hi Natasha,

Adam Chapdelaine tasked me with staffing the Town Manager's Gas Leaks Task Force when he left. One of the steps the group was set to take before his departure was to issue the attached resolution calling on National Grid to commit to a schedule for fixing the Significant Environmental Impact methane leaks in Arlington, of which there are 14. The company has been remiss in their responsibility to fix these dangerous leaks, making the resolution necessary. We are working to show broad support before introducing the resolution to the Select Board. Would you be willing to ask the Board of Health to endorse the resolution?

Cheers,  
David

--

David Morgan | Environmental Planner + Conservation Agent | Department of Planning and Community Development |  
781.316.3012 | [dmorgan@town.arlington.ma.us](mailto:dmorgan@town.arlington.ma.us)

*Arlington values equity, diversity, and inclusion. We are committed to building a community where everyone is heard, respected, and protected.*



## TOWN OF ARLINGTON

Massachusetts

### RESOLUTION REQUESTING THAT NATIONAL GRID REPAIR SIGNIFICANT ENVIRONMENTAL IMPACT (SEI) GAS LEAKS BY JUNE 30, 2023

Whereas . . . Major methane gas leaks persist in Arlington owing to the failure of National Grid to make required repairs

Whereas . . . Methane gas leaks have detrimental effects on the environment, public health, safety, and welfare. The Intergovernmental Panel on Climate Change reports that atmospheric methane is now higher than at any time in at least 800,000 years and that methane is more than 80 times more potent than carbon dioxide in terms of warming the climate.<sup>1</sup> Methane leaks are linked to many serious public health problems.<sup>2,3</sup> Most at risk are children, the elderly, and those with respiratory issues such as asthma, COPD, or lung damage from Covid-19. Methane leaks kill trees<sup>4</sup> by suffocating their root systems, compounding detrimental climate, heat island, and air quality effects, and costing the town money. Arlington has lost many Town trees to gas leaks.<sup>5</sup> The estimated annual cost of leaked methane (natural gas) billed to Arlington National Grid customers is \$117,541<sup>6</sup>

Whereas . . . Significant Environmental Impact (SEI) leaks, which spread over an area of 2,000 square feet or larger, are the largest and most harmful of methane gas leaks from the local gas distribution system. These leaks, also known as "super-emitters," are estimated to be responsible for 50% of local methane leaks.<sup>7</sup> Per 2021 data, Arlington has 14 SEI leaks<sup>8</sup>

Whereas . . . Owing to work by Mothers Out Front, HEET, Gas Leaks Allies, and other climate organizations, gas utilities are now required to share SEI locations with the public. Arlington's SEI leaks are in heavily trafficked, densely populated areas. They are across from the high school and in our residential neighborhoods. SEI leaks are found at 151 Lake Street (leaking since 2017), 259 Park Avenue (2017), 44 Jason Street (2011), 15 Russell Street (2006), 880 Massachusetts Avenue (2018), 325 Mystic Street (2012), 355 Mystic Street (2011), 106 Rhinecliff Street (2017), 864 Massachusetts Avenue (2020), 22 Sutherland Road (2017), 364 Gray Street (2014), 10 Joyce Road (2020), 58 Medford Street (2020), and 264 Massachusetts Avenue (2013).<sup>9</sup> These are presented in decreasing order of emissions

<sup>1</sup> <https://www.ipcc.ch/assessment-report/ar6/>

<sup>2</sup> <https://static1.squarespace.com/static/612638ab5e31f66d7ae8f810/t/615888c41ab1fe20dbe57188/1633192135840/Rolling+the+Dice.pdf>

<sup>3</sup> <https://www.ccacoalition.org/en/news/methane%E2%80%99s-links-respiratory-diseases-strengthens-case-its-rapid-reduction>

<sup>4</sup> <https://www.sciencedirect.com/science/article/pii/S0269749119376717?via%3Dihub>

<sup>5</sup> [https://docs.google.com/document/d/147o-LHgbIWNM7dx93L29LVkWGRO7qkB7u\\_GZIOg3Od4/edit](https://docs.google.com/document/d/147o-LHgbIWNM7dx93L29LVkWGRO7qkB7u_GZIOg3Od4/edit)

<sup>6</sup> <https://heet.maps.arcgis.com/apps/webappviewer/index.html?id=73f7627766e64161a65c7518acb7eb9d>

<sup>7</sup> <https://pubmed.ncbi.nlm.nih.gov/27023280/>

<sup>8</sup> <https://heet.maps.arcgis.com/apps/webappviewer/index.html?id=73f7627766e64161a65c7518acb7eb9d>

(note that the nonprofit HEET uses utility data for these gas leaks maps)

<sup>9</sup> *ibid.*



TOWN OF ARLINGTON  
Massachusetts

Whereas . . . National Grid is responsible for fixing SEI leaks within two years of their designation date, per the requirements for Uniform Natural Gas Leaks Classification (220 CMR 114, D.P.U. 16-31-C)

Whereas . . . It was only in 2021, after years of public pressure, that National Grid measured the area of Arlington's gas leaks and designated these leaks as SEIs.<sup>10</sup> Although most of our large volume gas leaks (SEIs) have only been classified as such since 2021 after being required by regulation,<sup>11</sup> many of these leaks were identified much earlier

Whereas . . . Due to their volume, SEI leaks emit a disproportionately large amount of methane, a greenhouse gas, into our atmosphere and Arlington is committed to reaching net zero for greenhouse gas emissions by 2050<sup>12</sup> and has declared a climate emergency

Whereas . . . The Town Manager's Gas Leaks Task Force was convened in 2016 to improve the dialogue with National Grid regarding the repair of gas leaks so that the various environmental and public health related impacts of gas leaks can be better mitigated and includes representation from the Department of Public Works (Bill Copithorne, Engineering and Tim Lecuivre, Tree Division), Sustainable Arlington (Bruce Moulton), the Tree Committee (Susan Stamps), and Mothers Out Front (Ann Boland and Ann Wright), and is staffed by the Department of Planning and Community Development (David Morgan, Environmental Planner)

Whereas . . . This resolution has been endorsed by the Conservation Commission, Open Space Committee, Tree Committee, Sustainable Arlington, Clean Energy Future Committee; School Committee, Board of Health, and Park and Rec Commission

Comment [DM1]: Red text indicates pending endorsements

Be It Resolved . . . That the Select Board shall send by email and by Certified Mail, Return Receipt Requested, a copy of this resolution together with a letter requesting that, within 30 days of date of said letter, National Grid commit to repair dates before June 30, 2023 for all of the above-listed SEIs and communicate those dates to the Select Board and Gas Leaks Task Force, to Amy Smith, Director NE Jurisdiction Gas Business Unit at National Grid and the following parties:

- Matthew H. Nelson, Chair of the Department of Public Utilities
- Representatives Sean Garballey and David Rogers
- Senator Cindy Friedman
- Directors of the Town of Arlington Department of Public Health, Department of Public Works, Department of Planning and Community Development
- Town of Arlington Public Information Officer Joan Roman
- Arlington Advocate, YourArlington, Arlington Patch, Arlington Community Media Inc., Boston Globe

<sup>10</sup> *ibid.*

<sup>11</sup> Uniform Natural Gas Leaks Classification (220 CMR 114, D.P.U. 16-31-C)

<sup>12</sup> Arlington Net Zero Action Plan, February, 2021

<https://www.arlingtonma.gov/home/showpublisheddocument/55139/637885684739670000>



**TOWN OF ARLINGTON**  
Massachusetts

Respectfully submitted:

\_\_\_\_\_  
DeCoursey, Stephen W.

\_\_\_\_\_  
Diggins, Lenard

\_\_\_\_\_  
Helmuth, Eric D.

\_\_\_\_\_  
Hurd, John V.

\_\_\_\_\_  
Mahon, Diane M.



Town of Arlington  
Department of Health and Human Services  
Office of the Board of Health  
27 Maple Street  
Arlington, MA 02476

Tel: (781) 316-3170  
Fax: (781) 316-3175

**MEMORANDUM**

To: Board of Health  
From: Pdraig Martin, Lead Health Compliance Officer  
Date: October 13, 2022  
RE: Arlington Smoke Shop Compliance Violations

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Rotem Aloni, Agent of the Board of Health for Tobacco Control, conducted retail tobacco checks on behalf of the Department at several permitted tobacco establishments in town on September 29, 2022. Arlington Smoke Shop had available for purchase a flavored nicotine product (Whiskey nicotine liquid) at the time of inspection

The above action is in violation of state law entitled "An Act to Modernize Tobacco Control", 105 CMR 665.00: Minimum standards for retail sale of tobacco and electronic nicotine delivery systems and of the Board of Health Regulation Restricting the Sale of Tobacco Products and Nicotine Delivery Products.

According to the Town's REGULATION RESTRICTING THE SALE OF TOBACCO PRODUCTS AND NICOTINE DELIVERY PRODUCTS,

"The violator shall receive:

**a) In the case of a first violation, a fine of one thousand dollars (\$1000.00) and the Tobacco and Nicotine Delivery Product Sales Permit shall be suspended for seven (7) consecutive business days.**

b) In the case of a second violation within 36 months of the date of the current violation, a fine of two thousand dollars (\$2000.00) and the Tobacco and Nicotine Delivery Product Sales Permit shall be suspended for fourteen (14) consecutive business days.

c) In the case of three or more violations within a 36 month period, a fine of five thousand dollars (\$5000.00) and the Tobacco and Nicotine Delivery Product Sales Permit shall be suspended for thirty (30) consecutive business days"

In addition to the above violation, Arlington Smoke Shop was issued a Correction Order on September 20, 2022, for offering products for sale that are not consequential to the consumption of tobacco. This is a violation of the Board of Health Regulation Restricting the Sale of Tobacco Products and Nicotine Delivery.

Enclosed please find the following items:

1. Copy of the correction order dated 10/13/2022
2. Photo of nicotine product with description
3. Copy of correction order dated 9/20/2022





Town of Arlington  
Department of Health and Human Services  
Office of the Board of Health  
27 Maple Street  
Arlington, MA 02476

Tel: (781) 316-3170  
Fax: (781) 316-3175

## Correction Order

October 13, 2022

### HAND DELIVERED

Arlington Smoke Shop  
Attn: Irfan Modi and Pooja Modi  
914 Massachusetts Avenue  
Arlington, MA 02476

Please be advised that on September 29, 2022, Rotem Aloni, Agent of the Board of Health, conducted an inspection of your establishment. Ms. Aloni observed flavored nicotine product (Whiskey nicotine liquid) available for purchase at the time of inspection.

Arlington Smoke Shop violated the state law entitled "An Act to Modernize Tobacco Control", 105 CMR 665.000, and the Board of Health Regulation Restricting the Sale of Tobacco Products and Nicotine Delivery Products by:

- ☐ Sale of tobacco product to a person under the Minimum Legal Sales Age;
- ☐ Sale of a flavored nicotine delivery tobacco product [flavored combustible and other traditional tobacco products are prohibited on and after June 1, 2020];
- ☒ Offered for sale a flavored nicotine delivery product [see above];
- ☐ Failure of a non-age restricted establishment to maintain a record from the manufacturer indicating that an unflavored nicotine delivery product has a nicotine content of 35 milligrams per milliliter or less;
- ☐ Other, see the below additional violation(s), with any necessary additional pages attached:

You are hereby ordered to comply with An Act to Modernize Tobacco Control, 105 CMR 665.000, and Board of Health Regulation Restricting the Sale of Tobacco Products and Nicotine Delivery Products. In addition, the following fines and actions apply against Arlington Smoke Shop for violations of 105 CMR 665.000 and Board of Health Regulation Restricting the Sale of Tobacco Products and Nicotine Delivery Products:

- ☒ First violation: a fine of one thousand dollars (\$1000.00) and the Tobacco and Nicotine Delivery Product Sales Permit shall be suspended for seven (7) consecutive business days;
- ☐ Second violation within a 36-month period from the first violation: a fine of two thousand dollars (\$2000.00) and the Tobacco and Nicotine Delivery Product Sales Permit shall be suspended for fourteen (14) consecutive business days;
- ☐ Third violation within a 36-month period from the first violation or additional violations during that time period: a fine of five thousand dollars (\$5000.00) and the Tobacco and Nicotine Delivery Product Sales Permit shall be suspended for thirty (30) consecutive business days.
- ☐ Fourth violation within a 36-month period from the first violation or additional violations during that time period: a fine of five thousand dollars (\$5000.00) and the Tobacco and Nicotine Delivery Product Sales Permit shall be suspended for thirty (30) consecutive business days.

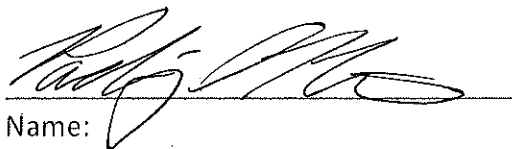
You are hereby ordered to pay the amount of **\$1,000.00** by check or money order made payable to the Town of Arlington within twenty-one (21) days of receipt of this order to the address below:

Arlington Board of Health  
27 Maple Street  
Arlington, MA 02476

You are hereby ordered to attend a Board of Health hearing on **Wednesday, October 19<sup>th</sup>, 2022 at 5:00 PM**. This hearing will be held to determine any further enforcement proceedings, including the possible suspension of your permit. The meeting will be conducted online via remote participation. A link to register for the meeting will be forthcoming.

Failure to comply with this order may result in additional penalties as permitted by law.

Signed by:

  
Name:

10/13/2022  
Date:

Padraig Martin, REHS  
Lead Health Compliance Officer  
Town of Arlington  
27 Maple Street  
Arlington, MA 02476

Whiskey Tobacco by Salt Bae 50 is a blend of whiskey tobacco with proper proportions of spicy & delicate. This e-liquid then finishes with the aged barrel taste of whiskey and tobacco flavor that will please your testbuds after dinner palette.

#### Product Specification

Primary Flavors: Whiskey, Tobacco

Bottle Sizes: 30ml

VG/PG: 50%VG / 50%PG





Town of Arlington  
Department of Health and Human Services  
Office of the Board of Health  
27 Maple Street  
Arlington, MA 02476

Tel: (781) 316-3170  
Fax: (781) 316-3175

## Correction Order

September 20, 2022

**HAND DELIVERED**

Arlington Smoke Shop  
Attn: Irfan Modi  
914 Mass Ave  
Arlington, MA 02474

Please be advised that on September 19, 2022, Health Compliance Officers Annette Curbow and Cameron Bishop performed a compliance check at Arlington Smoke Shop. Ms. Curbow and Mr. Bishop observed products for sale that are not consequential to the consumption of tobacco. For example, the following products were observed for sale: incense, candles, mugs, room deodorizers. Please note, this is not an exhaustive list of all non-tobacco related products for sale.

Arlington Smoke Shop violated the Board of Health Regulation Restricting the Sale of Tobacco Products and Nicotine Delivery Products by:

- ☐ Sale of tobacco product to a person under the Minimum Legal Sales Age;
- ☐ Sale of a flavored nicotine delivery tobacco product [flavored combustible and other traditional tobacco products are prohibited on and after June 1, 2020];
- ☐ Offered for sale a flavored nicotine delivery product [see above];
- ☐ Failure of a non-age restricted establishment to maintain a record from the manufacturer indicating that an unflavored nicotine delivery product has a nicotine content of 35 milligrams per milliliter or less;
- ☒ **Other, see the below additional violation(s), with any necessary additional pages attached:**

Adult-Only Retail Tobacco Store (also known as "Retail Tobacco Store" in MGL Ch. 270): An establishment that does not share space with another business, that has a separate entrance, that does not sell food or alcohol, that does not have a restaurant license or lottery license, **whose only purpose is to sell or offer for retail sale tobacco products and/or tobacco product paraphernalia**, in which the entry of persons under the age of 21 is prohibited at all times, and which maintains a valid permit for the retail sale of tobacco products from the Arlington Board of Health and applicable state licenses. Entrance to the establishment must be secure so that

access to the establishment is restricted to employees and to those 21 years or older. The establishment shall not allow anyone under the age of 21 to work at the establishment.

You are hereby ordered to remove all products which are not used for the purposes of consuming tobacco from the premises within seven (7) days of receipt of this letter. Failure to comply with this order letter may result in fines, suspensions and a hearing before the Board of Health.

Failure to comply with this order may result in additional penalties as permitted by law.

Signed by:

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Name:

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Date:

Annette Curbow, MPH  
Health Compliance Officer  
Town of Arlington  
27 Maple Street  
Arlington, MA 02476